

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

CHARLES MIDDLETON, )  
Plaintiff, )  
v. )  
FLAGSHIP INTEGRATION )  
SERVICES, Inc., an Illinois Corporation, ) Case No. 08 CV 3579  
in its own capacity and as Administrator )  
of the FLAGSHIP INTEGRATION )  
SERVICES INC. 401(K) PLAN, KIM )  
FLAGSTAD, individually and as ) Judge St. Eve  
Trustee of the FLAGSHIP )  
INTEGRATION SERVICES INC. )  
401(K) PLAN, and MICHAEL )  
CALUMET, )  
Defendants. )

**INITIAL STATUS REPORT**

Now comes the plaintiff, Charles Middleton, by and through his attorneys, Favaro & Gorman, Ltd., and for his Initial Status Report submits the following:

1. **The Nature of the Case**

- A. **Identify the attorneys of record for each party, including the lead trial attorney.**

**Attorneys for Plaintiff**

Andrew H. Haber (lead trial attorney)  
Dennis R. Favaro (lead trial attorney)  
Favaro & Gorman, Ltd.  
835 Sterling Avenue  
Suite 100  
Palatine, Illinois 60067  
(847) 934-0060

**Attorneys for Defendants**

All defendants have been served; however, no appearances have yet been filed on behalf of the defendants.

**B. State the Basis for Federal Jurisdiction**

This Court has jurisdiction pursuant to ERISA, 29 U.S.C. §1001 *et seq.*, and 29 U.S.C. §1132(e)(1); 28 U.S.C. §1331 (federal question); 28 U.S.C. §1367(a) (supplemental jurisdiction).

**C. Describe the Nature of the Claims Asserted in the Complaint and any Counterclaims.**

Plaintiff's claims are based on breach of fiduciary duty under the Employee Retirement Income Security Act, breach of contract, violation of the Illinois Wage Payment and Collection Act and the Attorneys' Fees in Wage Actions Act for failing to deposit into plaintiff's 401(k) retirement plan money deducted from his pay and for defendants' failure to pay wages and other compensation arising from plaintiff's employment with defendants.

**D. State the Major Legal and Factual Issues in this Case.**

To be later determined by the parties after an appearances have been filed by the defendants.

**E. Describe the Relief Sought by the Plaintiff(s).**

**Relief Sought in Count I of Amended Complaint for ERISA violations.**

1. Declaring that Flagship and Flagstad breached their fiduciary duties under ERISA;
2. Directing Flagship and Flagstad to direct plaintiff's contribution to his 401(k) account;
3. Requiring Flagship and Flagstad to personally contribute to the Plan such money as would have been earned on plaintiff's investment, and to cause such contribution to be credited to plaintiff's 401(k) account;
4. Awarding plaintiff a reasonable attorneys' fee and the costs of this action.

**Relief Sought in Count II of Amended Complaint for Breach of Contract**

1. Damages in the amount of \$34,059.41,
2. Statutory interest at five percent annum since May 1, 2007.

3. Costs of action.

**Relief Sought in Count III for Violation of the Wage Act**

1. Damages in the amount of \$32,665.72.
2. Statutory interest of five percent annum since May 1, 2007.
3. Costs of action.

**Relief Sought in Count IV for Attorneys' Fees in Wage Actions Act**

Award plaintiff's attorney fees under the Wage Actions Act.

2. **Pending Motions and Case Plan**

- A. Identify All Pending Motions

There are no current Motions pending.

- B. Submit a proposal for a discovery plan, including the following information:

- A. The type of discovery needed;
- B. A date for Rule 26(a)(1) disclosures;
- C. A fact discovery completion date;
- D. An expert discovery completion date, including dates for the delivery of expert reports;
- E. A date for the filing of dispositive motions; and
- F. A date for the filing of final pretrial order.

To be later determined by the parties after appearances have been filed by the defendants.

- C. With respect to trial, indicate the following:

- A. Whether a jury trial is requested;
- B. The probably length of trial; and
- C. When the case will be ready for trial.

To be later determined by the parties after appearances have been filed by the defendants.

3. **Consent to Proceed Before a Magistrate Judge**

- Indicate whether the parties consent unanimously to proceed before a Magistrate Judge.

To be later determined by the parties after appearances have been filed by the defendants.

4. **Status of Settlement Discussions**

- A. Indicate whether any settlement discussions have occurred;
- B. Describe the status of any settlement discussions; and
- C. Whether the parties request a settlement conference.

To be later determined by the parties after appearances have been filed by the defendants.

Plaintiff submits that once appearances have been filed by the defendants, the parties will submit and amend the Initial Status Report to this Court.

/s Andrew H. Haber

One of plaintiff's attorneys

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